# Certifying Officer Legislation Training

https://dfas4dod.dfas.mil/training/courses/colbasics/index.html

The requirements for financial management is based in law. The Constitution, public laws, and several authorizations and appropriation acts require not only that financial management be performed, but also specify how it should be performed.

The Constitution forbids the disbursement of funds from the Treasury unless funds are specifically appropriated by law.

The anti-deficiency Act prohibits the illegal use of funds and has punitive provisions for violations.

The Chief Financial Officers Act focuses the financial management efforts of all federal departments and agencies on how well tax payer dollars are spent.

Finance Officers, Disbursing Officers, agents, and other financial personnel entrusted with public funds are accountable for those funds at all times. They may be pecuniarily (financially) liable for any financial losses.

Prior to a 1996 legislative change, within DoD only Disbursing Officers were pecuniarily liable for fiscal irregularities. Certifying Officers did exist; however, they were just administrative appointees. Public Law 104-106, national Defense Authorization Act for Fiscal Year (FY) 96, changed that forever. This legislation established accountability for an individual's actions in the form of pecuniary liability. The law requires the appointment of an individual who is independent and organizationally separate from Disbursing Officers to certify vouchers. DoD policy is contained in DoD FMR 7000.14R, Volume 5 Chapter 33.

The Certifying Officer Legislation requires that an individual, other than the Disbursing Officer, be assigned responsibility for certifying vouchers for payment. In making a certification, Certifying Officers are responsible for the existence, accuracy, and legality of information on a voucher. Certifying Officers are pecuniarily liable for illegal, improper or incorrect payments resulting from improper certification.

Lets learn some of the ways to find critical reference material concerning the Certifying Officer.

## Twelve Points of COL
## DoD FMR 7000.14R Volume 5 Chapter 33

1. The payment is permitted by law and complies with the terms of the applicable agreement.
2. The required administrative authorizations and approvals for payment are obtained.
3. The payment is supported by basic payment documents or other acceptable forms of support.
4. The amount of the payment and the name of the payee are correct.
5. The goods received or the services performed comply with the agreement.
6. The quantities, prices, and calculations are accurate.
7. All cash trade, quantity, or other discounts are taken and, if not, that the reason therefore is shown on the appropriate document.
8. All applicable deductions are made and credited to the proper account in the correct amount.
9. Prompt payment requirements are followed.

**The following regulations, laws, and directives pertain to COL:**

- Sections 3321, 3325, 3527, 3528, and 3529 of Title 31, Money and Finance, of the United States Code

- Public Law 104-106. Section 913

- DoD Directives 7000.14R, DoD Financial Management Regulation (DoD FMR), and 7000.14R, DoD Accountable Officials and Certifying Officers

A Certifying Officer's certification attests to the legality, propriety, and correctness of a voucher for payment as defined in 31 U.S.C. Section 3528(a).

**Types of Certifications**

**Voucher Certification**

Certification of a single original voucher attests to the propriety and legality of the information contained on the voucher and is authorization for the Disbursing Officer to make payment as identified on the voucher. Certifying Officers are accountable for the information contained on the voucher.

## Voucher Awaiting Payment (VAP) Certification

Voucher Awaiting Payment (VAP) Certification occurs when payment information for multiple payment vouchers has been combined in an electronic file for payment. When the vouchers have been previously certified, certification of the VAP attests to the total dollar amount and number of payments contained in the file, not to the propriety and legality of individual vouchers contained in the payment file. Certifying Officers may rely on original certification of vouchers contained in the VAP and are only accountable for the totals certified should they differ from the number of vouchers making up the file. However, if the dollar amount or number of payments on the incoming file are changed after receipt and prior to VAP certification, the certification on the VAP will also attest to the change and the Certifying Officer certifying the VAP may be accountable for improper or illegal payments caused by the change. In some cases the VAP certification is the first certification of payment vouchers contained on the VAP. In these cases, the Certifying Officer is, in fact, certifying all vouchers contained on the VAP and may be held liable for any erroneous payment contained within that VAP.

## Subsequent Certification

Certifying Officers are accountable for all information contained on vouchers they certify for payment. If any information on the voucher is changed after the initial certification, the voucher must be re-certified by a properly appointed Certifying Officer. This re-certification is called a "subsequent certification". The Certifying Officer performing the subsequent certification becomes accountable for illegal, incorrect or improper payments caused only by the changed information she/he certified.

Certification may be manual or electronic. Certifying Officers can manually certify directly on the voucher or summary voucher. The certification includes the Certifying Officer's signature, typed or printed name, title, date, and dollar amount. Once a Certifying Officer manually certifies a voucher, it can be delivered to the disbursing office. Let's take a look at the electronic certification method.

The Certifying Officer may certify electronically if the following criteria are met:

- adequate safeguards exist to prevent unauthorized use
- electronic certification is unique to the Certifying Officer
- access capability (e.g. CAC) remains under his/her sole control
- electronic certification is verifiable by the Disbursing Officer
- electronic certification is invalidated by the system if the data it is linked to is changed or altered in any fashion

Centralized disbursing, automated systems, increased transaction volume, and more complex business processes have reduced the individual's ability to personally ensure the accuracy, legality, and propriety of each payment. Voucher certification must rely on information and expertise provided by several key players. Their efforts play significant roles in the certifier's ability to properly certify. Some are in managerial roles and others are in direct support roles.

Let's find out who these key players are and what their roles and

## esponsibilities in the Payment Voucher Certification Process

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epartmental Accountable Official

Take a moment to read the list above (left side of graphic) of the key individuals involved in the certification process. Each individual has distinct responsibilities in the payment voucher certification process. Let's look closely at each of those responsibilities starting at the top of the list with the USD(C). Then we'll work our way down the list.

At the DoD level, the overall responsibility for the integrity of the payment voucher certification process rests with the Under Secretary of Defense (Comptroller) USD(C). The USD(C) administers and manages DoD FMR 7000.14R.

The heads of the DoD components implement the specific requirements of DoD FMR 7000.14R. These managers are responsible for day-to-day business operations, including guidance, oversight, design, modification, and maintenance of their respective components' business processes and systems. The heads of DoD components play a critical role in the assignment of certification responsibility. The heads of DoD components, or their designees, appoint Certifying Officers and Departmental Accountable Officials. (We'll discuss the Departmental Accountable Official later in this lesson.) The heads of DoD components are also responsible for overseeing the appointed Certifying Officers and Departmental Accountable Officials

You should note that the Head of Component in this context is as described in DoD FMR 7000.14R. The Head of Component may delegate the appointment authority down the chain of command as appropriate for the needs of the component. For example, the Head of Component for the Defense Finance and Accounting Service, is the Director, Defense Finance and Accounting Service (DFAS).

The Director, DFAS specifically delegates the authority to appoint certifying officers and review officials to the several subordinate directors along with authority to re-delegate to certain levels within the business lines. The service secretaries may delegate their authority to subordinate organizations either through general or specific delegations.

The last responsibility of the Heads of the DoD Components that we'll talk about involves their decision making and investigations. For instance, they will convene or order an investigation when an illegal, improper or incorrect payment is discovered.

**Disbursing Officers**

Disbursing Officers are responsible for disbursing money according to properly certified vouchers. To accomplish this, they examine the voucher to determine proper form, certification, and approval by an authorized Certifying Officer. They also ensure that the voucher was computed correctly for the facts certified. Disbursing Officers return vouchers that are not in the proper form, incomplete, or not properly certified to the Certifying Officer

There are specific appointment rules that require a separation of duties for Disbursing Officers. A Disbursing Officer may not normally be appointed as a Certifying Officer. A Disbursing Officer also may not appoint a Certifying Officer. This is an example of separation of duties.

Disbursing Officers are pecuniarily liable for erroneous payments made without or contrary to a certified voucher.

**Supervisors**

Supervisors are responsible for ensuring that both initial and refresher training is provided to new and existing Certifying Officers and Departmental Accountable Officials. Supervisors must also periodically review or inspect the actions taken by Certifying Officers and Departmental Accountable Officials under their control to ensure policies and procedures compliance.

**Certifying Officers**

The Heads of DoD components appoint Certifying Officers with a DD Form 577, Appointment/Termination Record - Authorized Signature.
Responsible for information in vouchers, supporting documents and records.
Determine Legality of payment.

On the flip side, when a Certifying Officer is no longer in that position, their appointment as a Certifying Officer must be terminated using the DD Form 577 showing the date and reason for the termination of duties as a Certifying Officer. The original DD Form 577 must be provided to the servicing Disbursing Officer. A copy should be maintained in the Certifying Officer's personnel file. **Note: The retention period for the appointment and termination DD Form 577 is 6 years, 3 months after termination of appointment as a Certifying Officer**

Certifying Officers are responsible for the information found on vouchers, supporting documents, and records. They determine the legality of a proposed payment using the cited appropriation or fund and are responsible for the computations on a certified voucher.

**Certifying Officers are pecuniarily liable for illegal, improper or incorrect payments resulting from improper certification..**

**Departmental Accountable officials** are responsible for providing to a Certifying Officer information, data, or services that are directly relied upon by the Certifying Officer in the certification of vouchers for payment. Two examples of individuals who could be appointed as Departmental Accountable Officials are: Receiving Officials and Contracting Officers.

Departmental Accountable Officials may also be pecuniarily liable for illegal, improper, or incorrect payments made as a result of their fault or negligence. Further, the Certifying Officer relied on that information from the Departmental Accountable Official to certify the voucher supporting that payment. Pecuniary liability may apply to the Departmental Accountable Official in the same manner and to the same extent as it applies to the Certifying Officer.

Disbursing Officers and Certifying Officers play highly visible roles. They are pecuniarily liable for their actions when an improper payment voucher certification results in an erroneous payment.

The role of the Supervisor, while not as visible as the Disbursing and Certifying Officers, is important as well. In addition to their responsibility for providing the initial and refresher training, it is critical for Supervisors to provide effective supervision of Certifying Officers to minimize the number of erroneous payments

Public Law 104-106 created the requirement that DoD use Certifying Officers in the payment certification process. Sound financial management and internal control practices require that whenever practical, Certifying Officers be independent and organizationally separate from Disbursing Officers.

Let's take a look at the specific qualifications that a DoD Certifying Officer should:

A Certifying Officer should have:

- be knowledgeable of the area in which he or she performs certifications

- have background or experience in preparing vouchers for payment

- have knowledge of the payment process (e.g. availability of funds and location of designated paying and accounting offices)

- have knowledge of appropriations and other funds and accounting classifications.

Certifying officers must be U.S. citizens if their duty stations are within the continental United States (subject to certain exceptions). There are no comparable requirements applicable to employees outside the continental United States.

Normally, Disbursing Officers are not eligible for Certifying Officer appointment. Also, individuals under a Disbursing Officer's supervision may not be appointed as Certifying Officers except under unusual circumstances. This separation of duties provides independence and strength to the internal control process.

Personnel eligible for Certifying Officer appointment include commanders, deputy commanders, resource managers/fund holders, travel authorizing officials, purchase card approving officials, and other personnel in equivalent positions.

(The above qualifications are not intended to be all-inclusive.)

- Appoint and terminate the appointments of certifying officers and DAOs on DD Form 577 (Appointment/Termination Record/Authorized Signature). Identify the specific types of payments, e.g., vendor pay, purchase card, CBAs, travel, transportation, military, and civilian pay involved. For miscellaneous vendor payments, the appointing authority should identify the types of payments (e.g., medical reimbursement, damage claims, or tuition assistance) affected, but need only be as specific as he or she considers necessary, and may include the reviewing official’s organization on the appointment. For pecuniary liability determination purposes, include the appointee’s full Social Security number (or employee number if not a U.S. citizen), name, organization, and position.

There are some interesting facets to the Certifying Officer appointment. When a computation function is performed at an activity that is independent from the disbursing function, a Certifying Officer may be appointed to the first-line supervisor level, or higher within the computation function area.

Where computations for payment are performed under the direction of the disbursing officer during tactical operations (including afloat units, military training exercises, noncombatant evacuations, and contingency operations), certifying officers may be appointed from among personnel within the disbursing office. These appointments must be accomplished either by direct written notification from the respective Head of the DoD Component to the designated appointee or by delegation through command channels excluding the disbursing officer. This special appointment would typically be for the duration of the deployment.

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Now that we know about the appointment process, let's examine the payment certification process.

To start, the certification process is more than just the approval of a voucher for payment. It is a statement to the Disbursing Officer that the proposed payment is correct, legal and proper in the use of appropriations(s) or other funds designated on either the voucher or the supporting documents.

The certification process has three easy-to-remember steps. The steps are:

- review the supporting payment documents
- compute the entitlement
- certify the voucher

The key words to remember are **review**, **compute** and **certify**

Certifying Officers are automatically pecuniarily liable for the amount of illegal, improper or incorrect payments resulting from their certifications. Therefore, it is essential for their defense that they can show evidence of following established certification procedures. The certification process creates an audit trail. When performed correctly, the certification process provides protection for the Certifying Officer. In fact, following the correct procedures may provide a basis on which to grant relief of liability.

A Certifying Officer appointment should not be taken lightly.  Certifying Officers are automatically pecuniarily liable for the full dollar amount of illegal, improper or incorrect payments.

Knowing this, let's move on to learn about the Certifying Officer's accountability.

Certifying Officers ensure that vouchers certified for payment are valid.  The Certifying Officer is accountable for:

- the amount of any illegal, improper, or incorrect payment resulting from an inaccurate or misleading certification

- any payment prohibited by law

- any payment that does not represent a legal obligation under the appropriation or fund involved

As you know, accountability and responsibility go hand-in-hand.

The Certifying Officer is responsible for the correctness of the facts stated in the voucher and the existence of supporting documentation, and records. The Certifying Officer is also responsible for the accuracy of computations on the voucher and the legality of the proposed payment under the appropriation or fund involved. All of the Certifying Officer responsibilities are specified in 31 USC 3528(a) and the DoD FMR, Volume 5, Chapter 33. Let's look at the supporting documents needed for valid payments.

Valid payments generally have three parts:

- documentary evidence of a legal liability to pay against an available appropriation or fund
- supporting documentation
- a voucher

The payment voucher, all supporting documentation and any determinations made by or for the Certifying Officer (e.g. advance decisions) need to be accessible and retrievable. This collection of documents will form an audit trail, which may form the basis for relief from liability for the Certifying Officer.

We talked about accountability and responsibility. Now let's see how the operational changes have impacted the role of the Certifying Officer.

The centralization of disbursing processes and increased use of automated systems, coupled with the volume and complexity of business processes, reduces the ability of DoD officials to exercise direct personal control over all aspects of each business transaction. Because of these operation changes, it is extremely difficult for any single DoD official to personally ensure the accuracy, propriety, and legality of every payment. A Certifying Officer must depend on other personnel (e.g. Departmental Accountable Officials) involved in the payment authorization process to provide accurate and timely documents and quality service. A Certifying Officer may rely upon information provided by others in the payment process such as Contracting Officers, Resource Managers and Receiving Officials.

- In an automated system, evidence that the payments are accurate and legal is dependent on the system and not individual transactions. To ensure accuracy and legality, Certifying Officers need assurance that the automated system was designed properly and is functioning correctly. One way to ensure system integrity is through annual reviews, with interim checks when there have been major system changes. This will allow Heads of Components (or designee) to certify that the system can be relied on to produce accurate and legal payments. Office of Management and Budget (OMB) Circulars A-123 and A-127, Title 7 of the General Accounting Office (GAO) Policy and Procedures Manual provide guidance for automated system use.

**Pecuniary Liability**

Whenever an erroneous payment results from a Certifying Officer's certification of a payment voucher, the Certifying Officer is presumed to be negligent in the performance of her or his duties. To rebut the presumption of negligence, a Certifying Officer must present sufficient evidence that he or she was not negligent or his or her actions did not contribute to the erroneous payment.

Investigators must determine whether or not an erroneous payment occurred and if evidence shows the absence of fault or negligence on the part of the Certifying Officer.

In all cases, debt collection procedures must be performed to attempt recovery from the payee.

Pecuniary liability is the personal financial liability of Certifying Officers for erroneous payments. This liability acts as an incentive to guard against errors and theft by others. It ultimately helps protect the U.S. Government against Certifying Officer error and dishonesty. Certifying Officers are automatically pecuniarily liable when there is an erroneous payment. Generally, the amount of pecuniary liability is determined during the investigation of the erroneous payment and is equal to the erroneous payment less any amounts recovered from the payee.

You now know that pecuniary liability is the personal financial liability that automatically attaches to the Certifying Officer whenever an erroneous payment occurs.

A Certifying Officer may be relieved of liability, but negligence is presumed until

## Rights of the Certifying Officer

There are four rights that Certifying Officers can exercise in order to maintain the integrity of the certification process and minimize their pecuniary liability. The first three that we'll discuss can result in postponing the certification of a payment. The fourth one has more to do with the certification process.

The first of these rights is the option not to certify a payment voucher if the propriety or correctness of the voucher is questionable.
During the voucher review process, the Certifying Officer has the right not to certify payment if, in his or her judgment, the payment voucher certification package does not properly support a valid and legal payment. Let's find out about the second right that the Certifying Officer can exercise.

Before certifying a questionable payment voucher, the DoD Certifying Officer, by statute and regulation (31 U.S.C. 3529 and 32 CFR Part 282, Appendix F), has the right to seek an advance decision.

All advance decision requests must go through General Counsel of the Component concerned. What this means for a DFAS certifier is that an advance decision request must go through the chain of command to the DFAS Office of General Counsel.

There is another right that the Certifying Officer can exercise.  Let's take a look.

The Certifying Officer also has the right to seek additional back-up materials to substantiate an otherwise questionable payment.

In situations of heavy transaction volume, a statistical sampling plan may be applied in lieu of detailed examination of every voucher.  The sampling plan must be approved by the Agency Head (or designee) based on an analysis showing that the risk of loss is less than the cost of examining every transaction at a given threshold.

Following the identification of an erroneous payment, diligent collection action will be taken.  If collection action is unsuccessful, the Certifying Officer will remain pecuniarily liable for the uncollected balance, and may request relief of liability.

There are four possible outcomes to this request:

- partial recovery/pecuniary liability relief granted
- partial recovery/pecuniary liability relief denied
- no recovery/pecuniary liability relief granted
- no recovery/pecuniary liability relief denied

Ref: DoD FMR 7000.14R, Volume 5, Chapter 6

A successful recovery of payment relieves the Certifying Officer of pecuniary liability.

The Certifying Officer may request relief of liability for any unrecovered amount for which he or she is liable by submitting a statement explaining how the evidence shows a lack of negligence on his or her part.

The request is routed through the appropriate chain of command to DFAS Headquarters for consideration. Requests for relief may be delayed pending the outcome of collection efforts against the recipient. In all cases, the maximum delay is for one year following the attachment of liability against the Certifying Officer.

If no recovery is made, the same statement explaining that evidence shows a lack of negligence on the part of the Certifying Officer may be submitted.

If relief is not requested, personal funds equal to the amount of the loss must be remitted

Relief may be granted if the evidence shows that the erroneous payment was not the result of a Certifying Officer's negligence. Evidence that the Certifying Officer followed official DoD regulations, policies, and procedures including local standard operating procedures may support a

Following orders is not evidence of the absence of negligence or bad faith.  No relief will be granted if the payment was not for a legal obligation or the payment violated a statute or law prohibiting payment.

If a request for relief is granted, an individual is not pecuniarily liable.

Let's see what happens if the request for relief is denied.

If a request for relief is denied, the individual must remit personal funds equal to the amount of the liability less any amounts collected.  Alternatively, payment arrangements for settlement of the liability may be made between the individual and DFAS.

**Several factors are not relevant to granting relief, including workload, lack of training or experience, and personal financial situation.**

## PROCESS – Legal Standard for Relief

**An investigation to determine whether a Certifying Officer acted in a <u>reasonable</u> manner will compare**

The **Certifying Officer's** actions a **reasonably prudent person** would have acted under the circumstances

**STANDARD OPERATING PROCEDURE**
**Follow your SOP**

## PROCESS – Advance Decision

If a Certifying Officers **questions** the **legality** of a payment prior to certification, the Certifying Officers may request an **advance decision** from the DFAS Office of General Counsel.

An **advance decision** finding that a questionable payment is legal **shields** a Certifying Officer from **pecuniary liability**.

# PROCESS – Request for Advance Decision

Defense Finance & Accounting Service - Enterprise Learning

Requesting Decision

Email **must** include:

**1) CO's Name**

2) Reason for RAD

3) Supporting Documents

4) Concurrence/Nonconcurrence

**advanceddecisions@dfas.mil**

## Supporting Documents

- Voucher
- Contract
- Invoice
- Amount
- Payee
- Payment Due Date

## Concurrence/Nonconcurrence

- Supervisor's position/explanation
- AP Director's position/explanation
- Accounting Director's position/explanation

## SUMMARY
## - What can you do to avoid liability?

**You cannot be ordered to Certify an illegal or improper payment.**

- If the legality, propriety or correctness of a payment is in question, do not certify it. Instead pursue a RAD through your chain of command.

- Follow your SOP.